THE ALTERNATIVE OF RECIPROCITY TREATIES OR A DOUBLE TARIFF.

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THE regulation of the future commercial relations of the United States with the principal countries of Europe—especially Germany and her trade allies—as respects mutual tariff treatment of imports of merchandise, constitutes decidedly the most important economic problem that has presented itself in many years. Disregarding a comparatively few instances of preferential treatment arising from reciprocity arrangements, the general policy of the United States has always been to treat the products of all foreign countries with impartial uniformity by adhering strictly to the single-tariff system.

Assuming that a change in this time-honored policy shall become expedient, there are two alternative methods of solving the problem—reciprocity by a series of tariff treaties, or the enactment and application of the double-tariff system. The former solution would be accomplished through diplomacy, the resulting treaties being ratified by the Senate, and subsequently carried into effect by Congressional legislation; the latter would depend upon Congressional initiative and action, the resulting tariff schedules being then, in all probability, applied by the executive branch of the Government, through the medium of special treaties, to meet the different foreign conditions.

It has been alleged of late that our Government is engaged in groping around for an effective policy for use in meeting the emergencies of the future. So far as this might imply vacillation, the statement is not correct; but it is certainly true that events must crystallize before the necessity of abandoning the single-

tariff system can be demonstrated. At any rate, it should be of interest to notice the salient features and, in some measure, the relative merits of reciprocity and the double-tariff system.

I. *Reciprocity by Treaty.*—Reciprocity as a policy has had many vicissitudes in the United States, but has never been tried upon a large enough scale to test its potential merits. Our comparatively unfavorable experience with Canadian reciprocity under the Marcy-Elgin Treaty of 1854, in the period from 1855 to 1866, is not much of an argument for general application, for there were many controlling factors, both economic and political, in that isolated case. Nor is the enormous revenue sacrifice entailed by the former Hawaiian Reciprocity Treaty, justified as it was by considerations of high statecraft, a valid indictment against the policy. The same applies to our existing Treaty with Cuba. On the other hand, in all fairness, it must be conceded that the remarkable success and popularity in exporting circles enjoyed by the Blaine Agreements of 1891-'92,—which were put into operation by Presidential proclamation without submission to the Senate, and remained in force less than three years—were achieved without any real sacrifices on the part of the United States. It will be recalled that the Tariff of 1890 made the articles raw sugar, molasses, coffee, tea and hides, free of duty, while the third section, upon which those Commercial Agreements were based, authorized the President to suspend free entry of such imports from countries which should impose unreasonable duties upon American products, whereupon certain duties therein specified were to be collected. In compensation for the simple guaranty by the United States of the retention upon the free list of sugar, molasses, coffee, tea and hides, the contracting countries —ten in number, mostly of Latin America—granted important tariff concessions to American products. Under such auspicious circumstances, so favorable to this country, this experience with the reciprocity policy was certain to meet with favor in all branches of our industrial activity, for it injured no American manufacturing interest in the slightest degree. This is an important point to which I have rarely seen attention called in discussions on the subject of reciprocity. It is manifestly unfair to draw invidious comparisons between the reciprocity arrangements of the Harrison administration and the abortive reciprocity treaties of the McKinley administration, for the conditions pre-

sented to the respective negotiators were radically different. Mr. Kasson found it impossible to get something for nothing, and in order to secure valuable concessions for American commerce in France, the British West-Indian Colonies, the Argentine Republic, etc., he was obliged to pledge reduction of our existing duties, within the authorized statutory limit of 20 per cent., upon certain articles imported from the contracting countries. This involved some sacrifice on the part of certain of our domestic interests for the sake of the general welfare of our export trade. Some of these special interests protested earnestly, claiming that the reductions proposed upon foreign products entering into competition with their own would be injurious, if not ruinous. These protests were effective, and Mr. Kasson's arduous work under the fourth section of the Dingley Tariff has gone into history as a failure. The practical question arises, Has there been such change of sentiment in the Senate on the subject of reciprocity treaties as to warrant the negotiation of a new series of equally comprehensive scope, and to give reasonable promise of a better reception for them in that august body?

It is being freely suggested by American trade bodies in resolutions, by our exporters and importers engaged in trade with Germany, and by editorial writers, that the best way to settle prospective commercial differences with that country is for the United States to conclude a liberal reciprocity treaty. They have little or nothing to say about similar treaties with the other Powers of Europe, at least in this connection, and probably do not realize the significance of the conclusion of such a treaty. With a reciprocity treaty favoring German products once signed, it is not to be imagined for a moment that Germany's several rivals in our markets would be satisfied until they had secured a fair measure of equality of tariff treatment for their own products. This would necessitate a separate treaty in the case of each of the great commercial Powers, each treaty being adjusted to the trade of the particular country with the United States. For example, certain of Germany's commercial rivals would seek and probably secure tariff concessions approaching in value those previously granted to that country, but hardly coextensive, for the simple reason that the comparative state of their import trade in American goods would not permit them to reciprocate as fully as Germany. On the other hand, other coun-

tries with less diversity of manufacturing industries would be indifferent to some of the concessions granted to Germany or Austria, and would seek reduction of duties on entirely different articles. In the end we would have an American conventional tariff, as well as a general tariff, but it would be quite different from the European general and conventional tariff system.

This difference involves one of the most interesting and complex problems in American diplomacy,—consistent adherence to our time-honored interpretation of the most-favored-nation clause in treaties, which is in direct opposition to the European interpretation. There have been two or three instances in years long gone by when a Secretary of State has departed from the fixed practice, but, from the time of Thomas Jefferson until the present moment, the rule has been that the most-favored-nation stipulations which are found in nearly all our treaties of commerce and navigation have no applicability to reciprocity arrangements; hence, where one Power has granted certain tariff concessions to another in return for equivalent compensation, no third Power having most-favored-nation relations with either of the parties to the reciprocity treaty can, under the American interpretation, secure the extension to itself of these concessions *unconditionally and without yielding special compensation.* In fact, it is evident that the gratuitous extension to third Powers of commercial advantages exchanged in reciprocity between two countries is absolutely inconsistent with the true principles of reciprocity as understood in the United States; it would not only seriously impair, and even tend to destroy, the value of the original grant, but it would also involve duty reductions upon the entirety, or at least the bulk, of importations from the world of the articles of merchandise affected, thus constituting a serious sacrifice in national revenues. If this policy were adopted by our Government, it would, to be sure, simplify the reciprocity question, but the internal economic effects would be practically the same as if Congress were to revise and reduce the tariff, the only difference being that our foreign trade interests would be benefited by the employment of diplomacy, whereas simple tariff revision would insure no immediate betterment in that respect. It will be perceived, therefore, that the American interpretation of the most-favored clause is essential to American reciprocity.

If we should pursue an elaborate reciprocity programme, the

result would necessarily be a series of independent treaties with the several commercial Powers of the world. The state of trade might justify identity, or close similarity, of concessions in some of these conventions; but each would have to stand upon its own merits, and the new American conventional tariff could only be determined by consulting each treaty of the series in turn, without reference to the others.

These considerations make American reciprocity negotiations unusually difficult, but by no means impossible. It was my privilege to be associated, in a subordinate capacity, with the Hon. John A. Kasson during the four years in which he labored so ably and indefatigably in seeking to carry out the plans for reciprocity authorized and directed by Congress in sections 3 and 4 of the Tariff Act of July 24, 1897. At one period, I saw him engaged in negotiating simultaneously with the diplomatic representatives at Washington of no less than twenty different foreign Governments, giving adequate attention to each country, seeking special concessions from each, always studying the industrial effect of reductions of duty demanded in compensation, pondering carefully the proposed sacrifice of revenue, and making a fair appraisement of the bargain. The eleven treaties negotiated by Mr. Kasson and transmitted to the Senate may not have been faultless—in fact, they were not; but, considering that the whole series was the work of one man, who, at the outset, was long past the age when most men lay aside the great activities of life, they represented a remarkable achievement. Mr. Kasson has demonstrated that an American reciprocity treaty system is practicable. It is, indeed, an intricate system; but the *onus* of its inevitable complications and perplexities falls upon the negotiators.

II. *The Double-Tariff System.*—The second promising method of solving the commercial problems presented to the United States, as the result of the policy of discriminatory tariff treatment pursued by France and a few other foreign Powers, as well as of the possibly adverse attitude of Germany and her commercial allies of Middle Europe, lies in a system of maximum and minimum duties on the same articles of import, commonly known as "the double-tariff system."

This system was first employed by Spain in 1877, her schedule of duties in the tariff of that year being arranged in two columns, the first for countries already enjoying most-favored-nation treat-

ment, and the second for other countries. Spain's early experience with the new system, however, was rather unsatisfactory, especially in her relations with France. Consequently, in 1882, the two countries concluded a reciprocity treaty wherein Spain sacrificed a large portion of her minimum tariff, thereby creating *pro tanto* a conventional tariff; and, again, by the time she revised her tariff in 1886 most of the minimum duties had already been established by treaties with various countries. The same thing has happened in later years, so that it is not to Spain that we should go for the purpose of studying the operations of a consistent system of double-tariff.

France is the only country that has employed this tariff system with success and fairly consistently for several years, and her experience is worthy of our careful attention. Its adoption by the French Chambers in January, 1892, was due to the indefatigable efforts of M. Méline, who had earnestly advocated it, on different occasions, for nearly twenty years. The principal motives actuating the Chambers in enacting the Méline Bill seem to have been the dissatisfaction of the business interests of the country with the state of foreign commerce under the system of conventional duties, and the desire of the high-tariff elements to retaliate against the United States for our high tariff of 1890.

An excellent exposition of the French double-tariff system is contained in the "General Report made in the name of the Customs Commission appointed for the examination of the Bill relative to the Establishment of the General Customs Tariff, by M. Méline, Deputy." This Commission was composed of eight members, besides the secretaries; but the only familiar name is that of the president, M. Méline, who made this report to the Chamber of Deputies in its session of March 3, 1891. The tariff bill accompanying the report was enacted by both branches of Parliament and became a law January 11, 1892, going into effect February 1, 1892.

In this report, the Commission sketched the history of the conventional-tariff movement inaugurated by the famous Cobden Treaty of 1860 with England, and pointed out that the development of French foreign commerce had been far from satisfactory and adequate to the needs of the country under that system. They contrasted the natural conditions in England with those of France, declaring that the former were more favorable for the

employment of a low-tariff policy, and criticised the Cobden treaty as being extravagantly liberal on the part of France. In discussing the statistics of French commerce, they said that the movement up to 1869 had been fairly satisfactory, but unfavorable since then. Of late years, several leading countries, including the United States, Russia, Austria-Hungary and Germany, had pursued a different policy from France by raising their tariffs. The Commission was opposed to the single-tariff system on the ground that it presented too many inconveniences and dangers. France, they said, would be forced to adopt the extreme of protection like other single-tariff countries, which would compromise the export interests and deprive the Government of the concessions which it had obtained under the conventional system from foreign countries, for, if France should place herself in the position of denying favors to others, there would be no possibility of demanding them in return. Measures of retaliation might become necessary, which were to be avoided. They rejected the proposal that short-term treaties for five years or less be concluded, pointing out that such course would fail to give stability to the economic system of the country and would provoke a tariff discussion every four or five years. Tariff revision, they said, was desirable only at long intervals and on a few articles, while tariff treaties need frequent amendment. The Commission also laid stress upon the needs of the national treasury; larger revenues must be secured in order to satisfy the enormous fiscal demands resulting from the Franco-Prussian War. To meet this situation, the Commission had formulated a double tariff, the operation of which they proceeded to explain. I quote the following paragraphs from the report:

"It remains for us to explain the resolutions of your Commission as regards the application to foreign countries of our minimum tariff. We thus come to the question of the operation of our new minimum régime.

"The Government has proposed to us to settle it by the adoption of a double tariff, the minimum tariff and a higher general tariff to be based on the variable increase of the rates of the minimum tariff. The general tariff would be our tariff of common right, applicable in principle to the whole world. As for the minimum tariff, it would constitute the tariff of favor which would be conceded to the countries which should accord to us corresponding advantages, and especially to those which should grant us in their markets the same advantages as our foreign competitors, that is to say, should treat us upon the footing of the most-favored nation.

"A very important question was to determine in what form, for what duration, and under what conditions the minimum tariff should be conceded to any country. Should it be by means of veritable treaties, that is, reciprocal contracts binding the two parties and fixing the rates of this tariff in irrevocable manner for their entire term? Should it, on the other hand, be given only as a simple reduction of the general tariff, which we might modify at will, in case necessity should so require?

"Upon this vital point the Government has demanded of us to reserve its liberty of action and its decision. It has declared to us that the moment does not seem to it to have arrived to declare that it would renounce absolutely all treaties in principle. It has only pronounced itself formally upon one point, that is, if treaties shall continue to be made, they must not go below the rates of the minimum tariff in concessions made to foreign countries. It is conceded, furthermore, that we ought to put the tariff on cereals and cattle outside the operation of these treaties.

"As respects the form, there are only two methods of making concessions, either by a law which binds us alone, or by a convention which binds those equally with whom we make it. We have already practised both systems; it was by a simple law that we granted to England, and quite recently to Greece, the benefit of our conventional tariff. It was by special conventions that we gave the treatment of the most-favored nation to other countries, as, for instance, Austria-Hungary, Russia, Turkey and Mexico.

"There are also two possible methods of conceding the minimum tariff in the form of a convention. It can be conceded as a simple treatment of favor on the general tariff, but without making any guaranty to maintain the rates indefinitely. On this hypothesis the result of the convention does not differ materially from the law. To grant our minimum tariff by a convention of this sort, is merely to bind ourselves to apply to the nation to which we make the concession our lowest tariff; but this is the extent of our obligation, and we remain masters of revising and raising the rates themselves of this tariff if the necessity for it should be shown us. In a word, we promise only one thing, that is never to apply our general tariff during the term of the convention to the nation with which we have made this arrangement.

"There would be a second method of according our minimum tariff, which would be to incorporate it in a regular treaty and thus to consolidate with it the rates during the entire duration of the treaty. Under this system, the minimum tariff would take the place of our existing conventional tariffs, with this single difference that it would be granted *en bloc*, whereas our conventional tariffs have been built up by bits and in successive layers.

"Confronted by these two systems, your Commission has decided, by a very great majority, that, if the first were acceptable, the second would hereafter have to be abandoned. They have believed that the interests of our country commanded it to make no more treaties and to remain master of its tariffs."

These arguments of the Tariff Commission prevailed with the Chambers, and their Bill was passed and became a law January 11, 1892, going into effect on February 1st of the same year, all the tariff treaties of France with foreign countries inconsistent therewith having previously been denounced and terminated by the last-named date.

The Double Tariff Act of 1892 has undergone remarkably few changes in the past thirteen years, notwithstanding that it has been the object of much unfavorable criticism at the hands of able French economists like Prof. Paul Leroy-Beaulieu. This fact would seem to indicate that France has been well satisfied with her experiment and has no intention of abandoning the system. The law itself consists of nineteen articles, to which are annexed the schedules of duties, A, B, C, D and E. Schedule A enumerates the import duties, arranged in two columns—the general tariff and the minimum tariff—and covering 654 classes of articles. In a few cases, for special reasons, the duties of the two tariffs have been made the same; but there is, as a rule, a marked disparity between the rates. Being specific duties, it is difficult to generalize upon this point. Our Department of Commerce and Labor states, in a recent publication, that the maximum rates average 75 per cent. higher than those of the minimum tariff; if, however, we limit consideration to American exports to France, the average difference is about 50 per cent.

The conditions and methods of applying the minimum tariff are an important feature of the system. The only provision of the Law of January 11th, 1892, upon this point is as follows:

> "The minimum tariff may be applied to goods the produce of countries where French goods enjoy corresponding privileges and to which the lowest tariff is applied."

A few days before the passage of the tariff act, an important law, that of the 29th December, 1891, was enacted, authorizing the prorogation of certain clauses of the treaties or conventions between France and Belgium, Spain, Netherlands, Portugal, Sweden and Norway, and Switzerland, and fixing the customs régime which might be applied on the 1st of February, 1892, upon entry into France, to products of the countries which were in actual enjoyment of the conventional tariff. The language of this law was as follows:

"The Government is authorized to apply, in whole or in part, the minimum tariff to products or merchandise imported from countries which actually enjoy the conventional tariff, and which will agree on their part to apply to French merchandise the treatment of the most-favored nation."

Not having enjoyed the old conventional tariff of France, and having no most-favored-nation treaty relations with her, the United States has continued to stand without the pale (excepting as respects the limited scope of the French Laws of January 27th and June 30th, 1893; Decrees of July 7th, 1893 and May 28th, 1898,—in relation to the Commercial Agreements of 1893 and 1898, respectively), American exports being subjected to the high rates of the maximum tariff, while like exports of all our great competitors enjoy in France the advantage of the minimum tariff, either by virtue of early treaties confirmed, since 1891, by French law or decree, or as the result of subsequent conventional arrangements. Had the Kasson treaty of July 24th, 1899, been ratified by both countries, the United States would now receive the benefit of the French minimum tariff on all its exports excepting nineteen articles. Some American Senators, however, hold that in this treaty we sought to purchase what we are of right entitled to; that, in view of the fact that we practise no discrimination in tariff matters against French products, but accord to them our lowest rates, we should receive like favorable treatment for our exports to that country. The Cuban Treaty of December 11th, 1902, was not in existence when the French Treaty was under discussion, but even this convention does not constitute a real discrimination, in view of the peculiar considerations of close neighborhood and the international obligations that dictated its negotiation by the United States.

A very important advantage claimed for the double-tariff system by its advocates is that under it complete liberty of action on the part of the legislature is reserved, whereas the conventional system, by binding existing rates or fixing new rates of duty for the treaty term, imposes a check upon legislative control. In France the maximum of to-day may become the minimum of to-morrow, while the former maximum may be doubled or trebled, and still no treaty stipulations be violated, as the most-favored-nation clause only enjoins that the contracting parties shall grant each other their respective lowest rates.

Strange to say, only three other countries of Europe have imitated Spain and France in adopting a double-tariff system; these are Russia, Greece, and Norway. But the Russian system has conventional features, and the Norwegian maximum tariff is merely a retaliatory measure for use only in case of discrimination. Perhaps the form of the latter might appeal to our statesmen. The Tariff Act of 1897 says:

"Should a foreign country collect on goods proceeding from Norway or on Norwegian vessels higher duties than those applied to other countries, the King may decide that goods imported from such countries shall be subjected to the maximum tariff."

The increasing favorable attention devoted in this country to the double-tariff system is significant of the trend of sentiment among our statesmen and economists. In a notable address delivered at Des Moines last May, the Hon. Leslie M. Shaw, Secretary of the Treasury, is reported by the press to have said:

"I have heard it intimated that an amendment to our present tariff laws is likely to be proposed at the next session (but with what prospect of passage I cannot say), substantially as follows:

"'Be it enacted, that whenever any country grants to the people of any other country privileges within its markets which are withholden from the people of the United States, then and in all such instances the tariff duties on all merchandise coming from those countries showing such preferences shall be —— per cent. higher than provided in the schedules of existing tariff laws.'

"This would constitute a maximum and minimum tariff, the maximum to be enforced only against such countries as exact a maximum rate against us."

III. *Possible Combination of Double Tariff and Reciprocity.*— Having outlined above the salient features of the two great tariff systems which divide into two economic camps, with more or less distinctness, all the countries of Europe outside the strictly single-tariff powers such as the United Kingdom and the Netherlands, it remains to consider whether the United States, in the event of a change of policy, might not advantageously adopt a combination of the two systems. If Congress were to establish a scale of maximum duties by a horizontal increase of the present rates to the extent of, say, twenty per cent., such maximum tariff could be applied to those countries which wilfully discriminate against the United States, while the regular tariff could be ap-

plied to all other countries, and, at the same time, be used, as occasion should arise, as the basis of special reductions of duty through the medium of reciprocity. The maximum duties thus created would constitute a penal tariff for use by the Executive in retaliation for prohibitory, discriminatory, or reciprocally unreasonable tariff treatment of American products. It is difficult to suggest a case of discrimination, no matter how flagrant, which could not be satisfactorily met and corrected by a system thus devised.

All tariff wars are commercial calamities, and popular sentiment is opposed to the adoption of any new system which would be likely to imperil the existing prosperity of the American export trade. It is not likely, however, that a combined system of reciprocity and penal tariff such as I have described would seriously disturb our friendly commercial relations with the world. In the first place, its very adoption would exercise a salutary influence in deterring foreign Powers from imposing discriminatory duties upon American products. At any rate, if a change of policy must come, the present is an auspicious time, in view of the fact that there are so few countries which actually discriminate against American trade; for the less discrimination the less disturbance to trade following the application of a penal tariff.

The actual situation as respects tariff treatment of American products in Europe is much more favorable than most persons suppose. There are only three countries which discriminate against imports from the United States by subjecting them to higher tariff rates than are applied to like imports from competing countries. These are France, Spain and Switzerland. It is high testimony to the skill and effectiveness of the diplomacy of the present Administration that not only has the list of discriminating countries not been enlarged by a single accession since President Roosevelt came into office in 1901, but it has recently been reduced by the withdrawal of Russia. Immediately following the happy termination of the peace negotiations an imperial ukase was issued, abolishing all the discriminatory duties that had been imposed, in the spring of 1901, as a retaliatory measure, upon important classes of American exports to Russia. Moreover, the outlook is promising that before long the same well-directed diplomacy will succeed in regaining for our export interests the

Table Showing Tariff Concessions Offered by Section 3, Tariff of 1897.

Enumerated Articles.	General Rate.	Concessional Rate.	Percentage of Reduction.
Argols, or crude tartar or wine lees, crude...	1 to 1½ cent per pound	5 per cent. ad valorem	Average 70
Brandies, or other spirits manufactured or distilled from grain or other materials	$2.25 per proof gallon	$1.75 per proof gallon	22 2-10
Champagne and all other sparkling wines, in bottles, containing each not more than 1 quart and more than 1 pint.	$8 per dozen....	$6 per dozen....	25
Each not more than 1 pint and more than ½ pint.....	$4 per dozen....	$3 per dozen....	25
Each ½ pint or less.	$2 per dozen....	$1.50 per dozen.	25
In bottles or other vessels containing more than 1 quart each	$8 per dozen, plus $2.50 per gallon on quantities in excess of 1 quart....	$6 per dozen.... plus $1.90 per gallon on quantities in excess of 1 quart ...	25 24
Still Wines, and Vermuth:			
In casks	40 and 50 cents per gallon ...	35 cents per gallon	12½ 30
In bottles or jugs, case of 1 dozen bottles or jugs, containing each not more than 1 quart and more than 1 pint, or 24 bottles or jugs containing each not more than 1 pint	$1.60 per case..	$1.25 per case..	21⅞
Any excess beyond these quantities found in such bottles or jugs	5 cents per pint or fractional part thereof..	4 cents per pint or fractional part thereof..	20
Paintings in oil or water colors, pastels, pen-and-ink drawings, and statuary	20 per cent. ad valorem	15 per cent. ad valorem	25

complete most-favored-nation treatment in Switzerland uniformly enjoyed prior to 1900. According to reliable European press statements of recent date, the Government of that country has decided to apply the conventional rates to imports from the

United States on and after January 1st next, which would, indeed, be a graceful act of international comity, as well as the wisest commercial policy. This would reduce the number of discriminating countries to two, disregarding those British colonies —the Dominion of Canada, New Zealand, and the South-African Customs Union—which grant preferential tariff treatment to imports from the Mother Country.

In the light of the ease with which our existing Commercial Agreements with France, Germany, Italy and Portugal were negotiated and put into operation, and their subsequent immunity from criticism by the domestic interests supposed to be affected, it might be found expedient to give preference to reciprocity by agreements based upon legislative authorization similar to that contained in Section 3 of the Tariff Act of 1897, with a greatly extended list of concessional articles selected by Congress to meet the conditions of trade with the several leading countries of the world. The reductions of duty provided by Section 3 appealed mainly to France, and in less degree to Germany, Italy and Portugal. The scope of that section is shown in the table printed on the preceding page.

In order to give wide application to the reciprocity principle, Congress would only have to extend the present short list of argols, wines, spirits, paintings and statuary, into a list applicable to all the countries with which the United States might advantageously enter into closer commercial relations. Reciprocity agreements made in accordance with this plan would be put into effect by proclamation of the President, without submission to the Senate or subsequent approval by Congress. The Supreme Court of the United States has decided that statutory reciprocity of this kind does not involve a delegation by Congress of its legislative power, but that the procedure is in entire conformity with the Constitution. Our recent experience with it has been satisfactory and the plan commends itself to the favorable consideration of American statesmen.

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